

B. REMARKS

Reconsideration is respectfully requested.

The sole rejection is under 35 U.S.C. 103(a). The Official Action alleges that the claims are unpatentable over Schwitter No. 6,530,728 in view of Gronlund No. 3,221,889.

The basic argument of the Examiner is that it would have been obvious to one of ordinary skill in the art to provide transverse footprint stabilizer portions, as taught by Gronlund, on the invention of Schwitter — because that approach would have provided more contact with a supporting substructure thereby making more stable support.

The problem with that thinking is that it ignores the conflicts created by combining Gronlund and Schwitter.

We must first recognize that Schwitter is primarily directed toward a ramp elevated over water in its entirety or a ramp having useful features for towing a watercraft. We aren't concerned with towing and the ramp over water strictly ignores any concept of water end and shore end. Schwitter only is concerned with supreme elevation of his ramp in its entirety over water. The drawings of Schwitter illustrate the arrangement of the ramp over water. The elevation of the ramp is significantly above the floor of the lake — and four discrete feet furnish the foundation for the entire assembly over the water. Absolutely nothing in Schwitter is directed toward "drawing a watercraft onto said watercraft supporting assembly" as required by applicant. Schwitter rams his watercraft up the ramp so as to be sure to get it

beyond his catch arms and hold it against reverse movement back into the water. Nothing in Schwitter suggests applicant's "a shore end support assembly" having a "transverse footprint stabilizer bar mounted to the underside of the rails."

Now, how anyone could look at Gronlund and figure out what from Gronlund should be taken to improve upon Schwitter or change Schwitter without destroying Schwitter is beyond conception even by the most energetic imagination. Please note that Gronlund uses a stake 12 at the shore end. Further, Gronlund's shore end can be tilted up. At the water end of Gronlund, there is a structure that is mounted at a pivot pin 30 so as to permit tilting of the entire triangular rail system of Gronlund about that pivot 30. Then observe that the pivot 30 has a vertical stake 22 that extends down to a support 24. The exact nature of support 24 is a little puzzling, but it is unequivocally not at all related to a shore end support assembly having a transverse footprint stabilizer bar as required by applicant. So how are we to interpret Gronlund to put his pivotable structure 30 at the shore end and thus distort both Gronlund and Schwitter.

Long ago, the CCPA cautioned in the case of *In re Mercier*, 515 F.2d 1161, 185 USPQ 774, 778 (CCPA 1975):

The board's approach amounts, in substance, to nothing more than a hindsight "reconstruction" of the claimed invention by relying on isolated teachings of the prior art without considering the over-all context within which those teachings are presented. Without the benefit of appellant's disclosure, a person having ordinary skill in the art would not know what portions of the disclosure of the reference to consider and what portions to disregard as irrelevant, or misleading.

The Federal Circuit in 1985 reiterated this caution in the case of *Interconnect Planning Corp. V. Feil*, 774 F.2d 1132, 227 USPQ 543, 547, 551 (Fed. Cir. 1985):

The invention must be viewed not with the blueprint drawn from the inventor, but in the state of the art that existed at the time.

* * *

Not only must the claimed invention as a whole be evaluated, but so also must the references as a whole, so that their teachings are applied in the context of their significance to a technician at the time — a technician without our knowledge of the solution.

More recently, the Federal Circuit in 2000, relying upon administrative law, pronounced in *In re Lee*, 61 USPQ2d 1430, 1433-1434, stressing the following:

The need for specificity pervades this authority. *See, e.g., In re Kotzab*, 217 F.3d 1365, 1371, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000) (“particular findings must be made as to the reason the skilled artisan, with no knowledge of the claimed invention, would have selected these components for combination in the manner claimed”); *In re Rouffet*, 149 F.3d 1350, 1359, 47 USPQ2d 1453, 1459 (Fed. Cir. 1998) (“even when the level of skill in the art is high, the Board must identify specifically the principle, known to one of ordinary skill, that suggests the claimed combination. In other words, the Board must explain the reasons one of ordinary skill in the art would have been motivated to select the references and to combine them to render the claimed invention obvious.”); *In re Fritch*, 972 F.2d 1260, 1265, 23 USPQ2d 1780, 1783 (Fed. Cir. 1992) (the examiner can satisfy the burden of showing obviousness of the combination “only by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references”).

Please turn now to applicant's claims.

Re Claim 1

Schwitter teaches nothing about a shore end support assembly distinct from a

water end support assembly. In fact, one cannot tell what Schwitter has as a water end or a shore end.

Schwitter never once teaches anything about a transverse footprint brace and never once teaches anything about a transverse footprint stabilizer bar. The Examiner imports from Gronlund, but Gronlund's element 24 is definitely not part of a shore end support assembly. Furthermore, it is entirely unclear as to what 24 actually consists of when one looks at and studies the Gronlund teachings. The chief point, however, is that Gronlund's carriage, as particularly illustrated in FIG. 1, has a pivot mounting 30 and legs 22 down to lateral sides 24. All of that structure is at the water end of Gronlund as particularly discussed at the middle paragraph of column 2 of Gronlund; and it is contrary to applicant's rigid (i.e., non-pivotal) mounting at the shore end. So, how does one use a pivot mounting by Gronlund to get a non-pivot mounting. It's not an easy step of logic. Further, the shore end of Gronlund has a stake 12 into the ground — all contrary to applicant.

Re Claims 2 Through 6, Inclusive

Please note that claim 3 has been amended to be dependent upon claim 2, and all of these claims recite added matter in the combination of claim 1 and thus additionally distinguish over any confounding combination one could create out of whole cloth using Schwitter and Gronlund.

Regarding Claims 6, 10, and 11

Gronlund does not teach any structure at the shore end that remotely resembles applicant's shore end support assembly having a transverse footprint stabilizer bar, etc.

Also of interest is the fact that the comment at the bottom of page 3 of the Official Action to the effect that the winch of Gronlund is non-pivotsly mounted at the shore end of the boat support makes it quite apparent that the Examiner is well aware that the entire boat support is tiltably mounted at element 30 of Gronlund and that the winch is on the pivoting boat support. See the middle paragraph of column 2 of the Gronlund patent and compare it to the showing of the three figures of Gronlund. The net result is that Gronlund teaches nothing about a "shore end support assembly having a transverse footprint stabilizer bar non-pivotably mounted to the underside of said rails at a location proximate to said shore end in a manner such that said mounting is inward from the outer ends of said stabilizer bar."

The point to be remembered is that Gronlund wants a pivot action at 30, which is at the water end and is contrary to applicant's teaching.

The Official Action asserts that it would have been obvious to one of ordinary skill at the time of the invention to provide transverse footprint stabilizing portions on the invention of Schwitter because it would give greater contact for the support structure. That is an odd comment because Schwitter is not concerned with a transverse footprint stabilizer. Schwitter relies upon solid feet framed apart and considerable elevation above the solid feet for the watercraft supporting assembly because he wants that watercraft supporting assembly to

project out of the water, rather than rely upon a shore end. As a matter of fact, Schwitter ignores the shore end concept.

Re Claim 7

Claim 7 clearly distinguishes over any combination that the two references cited in the Official Action could possibly create. Specifically, applicant's claim 7 requires a shore end support assembly having a transverse footprint stabilizer bar mounted in rigid relationship to the underside of said rails at a location proximate to said shore end ..., etc. Gronlund assiduously avoids and directs away from anything of the sort.

Applicant's loading assembly is at the shore end and is for drawing a watercraft onto the watercraft supporting assembly.

Merely selecting a hodgepodge of different features in the prior art and putting them together in an arbitrary manner does not constitute proper rejection under 35 U.S.C. 103.

Again it is emphasized that it is improper to select features arbitrarily from the prior art and combine them in any which way in order to arrive at something that arguably then has a resemblance to an applicant's invention.

Here the motivation to combine and arrive at applicant's invention is lacking. The desire for the structure of applicant's claims is not evident from the prior art itself. And it is improper to use applicant's teaching as the sole link for rejection.

Patent application, Serial No.10/647,837
Attorney Docket No. 51449-00211

With the foregoing in mind, it is respectfully submitted that the subject application should be reconsidered and we respectfully request early favorable action and Notice of Allowance.

Respectfully submitted,

Date: 6 July 04



Robert C. Baker
Attorney of Record
200 TCF Bank Building
12751 Nicollet Avenue
Burnsville, Minnesota 55337
Phone: (952) 882-9040
Fax: (952) 882-9038